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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,287	08/18/2003	Hou Chong Lei	211/240	4027
22440	7590	09/14/2004	EXAMINER	
GOTTLIEB RACKMAN & REISMAN PC 270 MADISON AVENUE 8TH FLOOR NEW YORK, NY 100160601			PRICE, CARL D	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/643,287	Applicant(s) LEI, HOU CHONG	
	Examiner CARL D. PRICE	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04/19/2004</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Information Disclosure Statement**

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

### **ClaimS1-14: rejected under 35 U.S.C. 112, second paragraph**

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims are vague and indefinite. For example:

- In claim 1, lines 6 and 7, there is not proper antecedent basis for "circumferential surface";
- In claims 3-5, there is not proper antecedent basis for "the diameter" and the outside diameter";

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- In claim 6, there is not proper antecedent basis for “a lever” since an element described as “a lever” is already present in claim 1, from which claim 6 depends. See similar language in claim 12.
- In claim 10, lines 6 and 7, there is not proper antecedent basis for “the diameter” and the outside diameter”, respectively;
- The scope of claim 14 cannot be determined since claim 14 depends from claim nonexistent claim 16.

#### **Specification**

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- cast nickel alloy (claims 2 and 11).

#### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

*The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the*

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*reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).*

**Claims 1, 3, 6 and 7: rejected under 35 U.S.C. 102(b)**

Claims 1, 3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by

US5759023 (Jenlis)

US5759023 (Jenlis) shows and discloses a sparking wheel arrangement for a hand held lighter of the type (see column 1, lines 43 and 52; Jenlis references WO 95/04247 US 4717335)), including:

- a fuel container,
- a fuel valve for allowing fuel to be fed from the fuel container to an ignition point (not shown),
- a lever for operating the fuel valve(not shown) ,
- a flint (8),
- a rotatably mounted sparking wheel (1) contacting the flint so that when the sparking wheel is rotated by a user, sparks are generated by the flint and projected to the ignition point,
- at least one side wheel (3,5) being provided, adjacent to and rigidly connect with the sparking wheel;
- the side wheel being greater than the diameter of the flint wheel;
- wherein the circumferential surface (5) of the side wheel is smooth so that, if a force is applied by a user to the circumferential surface of the side wheel and the sparking wheel, which force would in the absence of the side wheel be just

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sufficient to rotate the sparking wheel and to generate sparks, the user's thumb or finger slip on the side wheel.

US5759023 (Jenlis) discloses (see column 4, lines 9-23):

(8) It is contemplated that the rings and drivers can be of one piece, i.e., unitary. In this case, it is the absence of adherence of the finger of a child which prevents lighting. **That is, lacking sufficient friction with the ring, the child's finger merely slips around the periphery of wheel.** Thereby, the movement, or turning, of the drivers and the ignition of the lighter is impeded. **That is, such movement and lighting is rendered more difficult than if the arrangement of the ring were not present.** It is contemplated, for example, that the ring could even be provided with chrome or polytetrafluoroethylene (TEFLON) coating or other such means to reduce the friction of one's finger, particularly the finger of a child, with respect to the ring. **By such means, the outer surface of the ring is made less tractive than the outer surface of the drivers.**

**Claims 1, 4-7, 9, 10, 12, 13: rejected under 35 U.S.C. 102(b)**

Claims 1, 4-9, 10, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by

US5897307 (Chang)

US5897307 (Chang) shows and discloses a sparking wheel arrangement for a hand held lighter of the type including:

- a fuel container,
- a fuel valve for allowing fuel to be fed from the fuel container to an ignition point,
- a lever for operating the fuel valve,
- a flint (51),
- a rotatably mounted sparking wheel (52) contacting the flint so that when the sparking wheel is rotated by a user, sparks are generated by the flint and projected to the ignition point,

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- at least one side wheel (53, 54) being provided, adjacent to and rigidly connect with the sparking wheel,
- the side wheel being equal or less than the diameter of the flint wheel (see figures 4 and 7, respectively;
- 
- wherein the circumferential surface (53, 54; 53', 54') of the side wheel is smooth so that, if a force is applied by a user to the circumferential surface of the side wheel and the sparking wheel, which force would in the absence of the side wheel be just sufficient to rotate the sparking wheel and to generate sparks, the user's thumb or finger slip on the side wheel.

US5897307 (Chang) discloses (see Column 5, lines 16-37):

Therefore, as shown in FIGS. 3 and 4, after the striking wheel 52 is rotatably mounted between the first and second supporting walls 21, 22, the circumference of the striking wheel 52 should not exceed a boundary of the wind shield 60. As shown in FIG. 4, one can observe that the height of a top side of the striking wheel 52 is approximately equal to the height of the wind shield 60.

(8) In order to fill the gaps between two sides of the striking wheel 52 and the two bent-edge members 63, 64 and to provide a better striking contact with an adult's thumb by increasing the contacting area, two circular discs 53, 54, each having a glossy circumferential surface and a diameter approximately equal to that of the striking wheel 52, are integrally formed at the two sides of the striking wheel 52. The two circular discs 53, 54 and the striking wheel 52 can be made of a single cylindrical metal rod by elongating the length of the striking wheel 52 and only providing the circumferential coarse striking surface 522 at the central portion thereof. **However, it is also practical to integrally affix two independent circular discs 53, 54 in the proximity of the two sides of the striking wheel 52 to form an one-body configuration.**

US5897307 (Chang) discloses (see Column 6, lines 37-50):

(13) In this second embodiment, the width of the striking wheel 52' is also minimized to reduce the finishing cost of the circumferential coarse striking surface 522' of the striking wheel'. Similarly, a top end corner of each wing portion 612', 613' forms a curved corner 631', 641' which has a curvature matching with a quarter of circumference of the strike wheel 52', that is a radius of the striking wheel 52' is approximately equal to or slightly less than a radius of each of the curved corners 631', 641'. Therefore, **as shown in FIGS. 6 and 7, the circumference of the striking**

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wheel 52' should not exceed a boundary of the wind shield 60'. As shown in FIG. 7, the height of a top side of the striking wheel 52' is approximately equal to the height of the wind shield 60'.

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2 and 11: rejected under 35 U.S.C. 103(a)**

Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over US5897307 (Chang) in view of US5759023 (Jenlis).

US5897307 (Chang) shows and discloses the invention substantially as set forth in the claims. However, US5897307 (Chang) does not disclose forming the side wheel formed of cast nickel alloy, as set forth in applicant's claims.

US5759023 (Jenlis) teaches, from the same gas lighter field of endeavor as US5897307 (Chang), forming side wheels from low friction materials such as chrome which lacks sufficient friction such that a child's finger merely slips around the periphery of wheel.

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In regard to claims 2 and 11, for the purpose of providing a low friction material, it would have been obvious to a person having ordinary skill in the art to alloy metals such as chrome, and known equivalent materials such as nickel and zinc, in view of the teaching of US5759023 (Jenlis).

**Claim 8: rejected under 35 U.S.C. 103(a)**

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US5897307 (Chang) as applied to claim 7 above, and further in view of US006123541 (Yang).

US5897307 (Chang) shows and discloses the invention substantially as set forth in the claims. However, US5897307 (Chang) does not disclose forming the shield to stand around and project above the sparking and side wheels.

US006123541 (Yang) teaches, from the same gas lighter field of endeavor as US5897307 (Chang), forming a shield (12) to stand around and project above the sparking and side wheels for the purpose of providing means for inhibiting operation of the lighter by small children.

In regard to claim 8, for the purpose of providing additional means for inhibiting operation of the lighter by small children, it would have been obvious to a person having ordinary skill in the art to US5897307 (Chang) to forming the shield to stand around and project above the sparking and side wheels, in view of the teaching of US006123541 (Yang).

**Conclusion**

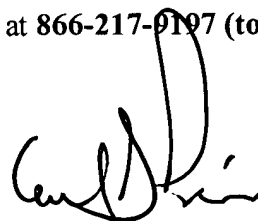
See the attached PTO FORM 892 for prior art made of record and not relied upon and which are considered pertinent to applicant's disclosure.

**USPTO CUSTOMER CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **CARL D. PRICE** whose telephone number is **703-308-1953**. The examiner can normally be reached on Monday through Friday between **6:30am-3:00pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on **703-308-1935**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (**PAIR**) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see **<http://pair-direct.uspto.gov>**. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**.



**CARL D. PRICE**  
**Primary Examiner**  
**Art Unit 3749**